

IC 28-9-4

Chapter 4. Procedure Upon Receipt of Notice

IC 28-9-4-1

Receipt of notice from an adverse claimant who is not a money judgment creditor; hold on deposit account

Sec. 1. (a) Upon receipt of the notice required under IC 28-9-3-3(b)(1), a depository financial institution shall place a hold on the deposit account described in the notice the amount in controversy that is specified by the notice.

(b) If within three (3) working days after receipt by a depository financial institution of the notice required under IC 28-9-3-3(b)(1), the adverse claimant has failed to serve or cause to be served an apparently valid order directing the depository financial institution to hold or restrict the funds in a deposit account against which an adverse claim is asserted, the depository financial institution shall treat the deposit account as if no notice of an adverse claim had been given.

As added by P.L.258-1989, SEC.2.

IC 28-9-4-2

Receipt of notice from an adverse claimant who is a money judgment creditor; restriction on withdrawal from deposit account; expiration of restriction

Sec. 2. (a) Upon receipt from an adverse claimant who is a money judgment creditor of the documents and process required under IC 28-9-3-4(d), a depository financial institution shall:

(1) deduct and obtain from the deposit account the full amount of the fee specified in section 3(b) of this chapter;

(2) within a commercially reasonable time after receiving the documents and process, restrict withdrawal of funds in the deposit account identified in the documents and process in an amount equal to the lesser of:

(A) the unpaid amount of the judgment specified by the documents and process; or

(B) the balance in the account at the time of receipt of the documents and process;

less one-half (1/2) of the amount of the fee deducted under subdivision (1);

(3) if the depository financial institution places a hold on the deposit account of a judgment defendant who is an individual, within one (1) working day after the hold has been placed, send to each depositor whose deposit account is affected at the last known address of such depositor or depositors (as the address is shown by the records of the depository financial institution with respect to that deposit account) a copy of the notice or order containing the notice specified in IC 28-9-3-4(d)(3) and a written notification advising the depositor or depositors that the hold has been placed; and

(4) if the depository financial institution places a hold on the

deposit account of a judgment defendant who is not an individual, within one (1) working day after the hold has been placed, send to each depositor whose deposit account is affected at the last known address of such depositor or depositors (as the address is shown by the records of the depository financial institution with respect to that deposit account) a written notification advising the depositor or depositors that the hold has been placed.

(b) The restriction on withdrawal from a deposit account imposed by a depository financial institution under this section may not exceed ninety (90) days, pending a court's determination of the adverse claimant's rights to the amount restricted.

(c) If:

(1) ninety (90) days have elapsed after the hold is placed on a deposit account; and

(2) an apparently valid order of a court has not been served upon the depository financial institution that directs the depository financial institution to begin or to continue to restrict withdrawals from a deposit account;

the restriction on withdrawal from the deposit account imposed under subsection (a) expires.

As added by P.L.258-1989, SEC.2. Amended by P.L.89-1998, SEC.2.

IC 28-9-4-3

Garnishment fee; credit against unpaid amount of judgment; deposit funds exempt from garnishment

Sec. 3. (a) This section applies to a depository financial institution that is required to place a hold on a deposit account under section 2(a) of this chapter.

(b) Immediately prior to the placing of a hold on a deposit account under section 2(a) of this chapter, the depository financial institution is entitled to receive and deduct from the affected deposit account a garnishment fee equal to the lesser of:

(1) twenty dollars (\$20); or

(2) the amount of funds then in the deposit account.

However, if the court determines that the funds from which the garnishment fee is deducted are exempt from garnishment, the depository financial institution shall recredit the deposit account affected with the amount of the garnishment fee previously deducted.

(c) In answering interrogatories served or caused to be served by the adverse claimant regarding the amount of funds in a deposit account, the depository financial institution shall indicate the balance in the deposit account immediately prior to the deduction of the garnishment fee specified in subsection (b).

(d) Upon receipt from the depository financial institution of answers to interrogatories indicating a balance in a deposit account in which the judgment defendant has an interest, the adverse claimant shall credit or cause to be credited against the unpaid amount of the judgment one-half (1/2) of the garnishment fee calculated in accordance with subsection (b). However, if the court determines

that the funds from which the garnishment fee is deducted are exempt from garnishment, that credit against the unpaid amount of the judgment shall be reversed.

(e) For the purposes of subsections (b) and (d), if the court determines that a portion of the funds in a deposit account is exempt from garnishment, the garnishment fee specified in subsection (b) shall be considered to have been deducted first from those funds in the deposit account that are not exempt from garnishment.

(f) Subject only to the provisions of subsection (b) with respect to adjustment of a deposit account based upon an exemption, once the garnishment fee specified in that subsection is deducted, the deducted amount shall not be subject to any claim by the adverse claimant or a depositor.

As added by P.L.258-1989, SEC.2. Amended by P.L.198-1991, SEC.2.